

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

In re:)	
)	
HARRAH LAND FC, LLC, et al.,)	Case No. 24-80401-PRT
)	Chapter 11
Debtors.)	

**CREDITOR TINKER FEDERAL CREDIT UNION’S
OBJECTION TO DEBTOR HARRAH LAND FC, LLC’S SUBCHAPTER V ELECTION**

Tinker Federal Credit Union (“TFCU”), a creditor in the above-captioned bankruptcy case, by and through its undersigned counsel, pursuant to Rule 1020 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), respectfully objects to Harrah Land FC, LLC’s (the “Debtor”) election to have Subchapter V of Chapter 11 (“Subchapter V”) of title 11 of the United States Code (the “Bankruptcy Code”) apply to this bankruptcy case and moves this Court for entry of an order revoking the Debtor’s Subchapter V designation. In support hereof, TFCU states as follows:

I. JURISDICTION AND VENUE

1. The United States Bankruptcy Court for the Eastern District of Oklahoma (the “Court”) has jurisdiction over this Objection pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

2. Venue in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The statutory predicate for the relief sought herein is Bankruptcy Rule 1020(b).

II. RELEVANT BACKGROUND

4. On May 21, 2024 (the “Petition Date”), the Debtor filed its Voluntary Petition pursuant to Subchapter V. Doc. No. 1.

5. On the Petition Date, Park 151 CS, LLC (“Park 151”) filed a Voluntary Petition pursuant to Subchapter V. Case No. 24-80403-T, Doc. No. 1.

6. The Debtor's membership is comprised of Timothy J. Remy (50%) and Timothy L. Remy (50%). Doc. No. 1 at 35-36; Doc. No. 5, Ex. B at ¶ 2; Doc. No. 22.

7. Park 151's membership is comprised of Timothy J. Remy (50%) and Timothy L. Remy (50%). Case No. 24-80403-T, Doc. No. 1 at 27; Case No. 24-80403-T, Doc. No. 5, Ex. B at ¶ 2; Case No. 24-80403-T, Doc. No. 20.

8. The Debtor listed \$6,687,191.70 in undisputed, liquidated, and non-contingent claims on its schedules. Doc. No. 1.

9. Park 151 listed \$5,315,082.35 in undisputed, liquidated, and non-contingent claims on its schedules. Case No. 24-80401-T, Doc. No. 1.

10. As of the filing of this objection, the Debtor's Section 341(a) Meeting of Creditors has not been held nor concluded.

III. ARGUMENTS AND AUTHORITIES

Bankruptcy Rule 1020(b) allows the U.S. Trustee or a party in interest to raise an objection to a debtor's designation under Subchapter V within 30 days after the first meeting of creditors, or after any amendment to such designation, whichever is later. Bankruptcy Rule 1020(b); *In re Bridle Path Partners, LLC*, No. BR 23-23960, 2024 WL 86601, at *3 (Bankr. D. Utah Jan. 8, 2024). When faced with such an objection, the Debtor bears the burden to prove its eligibility under Subchapter V. *Id.* (citing *In re Ikalowych*, 629 B.R. 261, 275 (Bankr. D. Colo. 2021); *In re Quadruple D Tr.*, 639 B.R. 204, 214 (Bankr. D. Colo. 2022).

If the Court finds that the Debtor does not qualify under Subchapter V, it may revoke the Debtor's designation. *In re Bridle Path Partners, LLC*, 2024 WL 86601 at *3. Here, the Debtor's Subchapter V designation must be revoked due to the Debtor and Park 151 being affiliates with aggregate noncontingent liquidated secured and unsecured debts in an amount greater than \$7,500,000.00.

A. The Debtor and Park 151 Are Affiliates With Debts In An Amount Greater Than \$7,500,000.00.

Any member of “a group of affiliated debtors under [the Bankruptcy Code] that has aggregate noncontingent liquidated secured and unsecured debts in an amount greater than \$7,500,000.00” is ineligible to proceed under Subchapter V. 11 U.S.C. § 1182; *See In re Heart Heating & Cooling, LLC*, No. BR 23-13019 TBM, 2024 WL 1228370, at *5 (Bankr. D. Colo. Mar. 21, 2024); *In re Quadruple D Tr.*, 639 B.R. at 214. Thus, the two simple questions before the Court are (i) if the Debtor and Park 151 comprise a group of affiliated debtors and (ii) if the Debtor and Park 151 had aggregate noncontingent liquidated secured and unsecured debts in an amount greater than \$7,500,000.00 on the Petition Date.

i. The Debtor is a member of a group of affiliated debtors.

The term affiliate means “corporation 20 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote... by an entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor.” 11 U.S.C. § 101(2)(B). The Debtor and Park 151, Oklahoma limited liability companies, each qualify as a “corporation” under the Bankruptcy Code. *In re Heart Heating & Cooling, LLC*, 2024 WL 1228370 at *6; Doc No. 1 at 1. The term “entity” includes person, to include Timothy J. Remy and Timothy L. Remy. 11 U.S.C. § 101(15). Timothy J. Remy and Timothy L. Remy each directly own and control over 20 percent of the Debtor and Park 151. Doc. No. 5 at ¶ 3. By their own admissions, the Debtor and Park 151 are affiliates, and therefore members of a group of affiliated debtors.

ii. The Debtor and Park 151 have aggregate noncontingent liquidated secured and unsecured debts in an amount greater than \$7,500,000.00.

To determine eligibility (based on a debt cap calculation) as of the Petition Date, the Court generally must “look at the debtor's schedules and the timely-filed proofs of claim.” *In re*

Lower, 311 B.R. 888, 891 (Bankr. D. Colo. 2004). The Debtor and Park 151 listed noncontingent liquidated secured and unsecured debts of \$12,002,274.05 on their respective schedules, said amount being greater than \$7,500,000.00.

Accordingly, under penalty of perjury, the Debtor and Park 151 have attested that they are ineligible to proceed under Subchapter V. *See* Doc. No. 1 at 6.

IV. CONCLUSION

WHEREFORE, Tinker Federal Credit Union respectfully objects to the Debtor's election to have Subchapter V apply to this bankruptcy case and moves this Court for entry of an order revoking the Debtor's Subchapter V designation.

Respectfully submitted,

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